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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3693

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,731	Applicant(s) GLASER, JAMES B.	
	Examiner JARED W. NEWTON	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is unclear how "identifying whether a match is obtained" further limits "determining if there is a match."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4, which depends from claim 3, recites "the at least one category"; however, claim 4 does not specify whether this recitation refers to the at least one buyer category, the at least one seller category, or both. Clarification is respectfully requested.

The term "substantially" in claim 6 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In regard to claims 9-16, the claimed apparatus consists of modules, which are data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. *See, e.g., Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

In regard to claims 17-24, claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer

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program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-13, 15-21, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,212,990 to Greden et al. (hereafter Greden).

In regard to claim 1, Greden discloses a system and method for matching potential buyers and potential sellers of real estate (see e.g. col. 2, lines 35-45), said method comprising:

indexing buyer real estate characteristics generated by a plurality of potential buyers (see col. 2, lines 13-17);

collecting at least one seller real estate characteristic generated by the potential seller (see col. 2, lines 46-54);

comparing the indexed buyer real estate characteristics and the at least one seller real estate characteristic (see col. 7, lines 4-11); and

determining if there is a match between at least one of the potential buyers and the potential seller, wherein the determination is a function of the comparison (see col. 7, lines 21-33).

In regard to claim 2, Greden discloses the identification of a match being made (see col. 7, lines 21-33).

In regard to claim 3, Greden further discloses accessing the indexed buyer real estate characteristics, the indexed buyer real estate characteristics being categorized into at least one category (see col. 7, lines 45-56);

categorizing the at least one seller real estate characteristic into at least one category (see col. 6, lines 55-61); and

comparing like categories of indexed buyer real estate characteristics with seller real estate characteristics (see col. 7, lines 4-11).

In regard to claim 4, Greden further discloses one of the at least one categories including location (see col. 7, lines 45-46 – Greden discloses “waterfront” location as a possible category).

In regard to claim 5, Greden further discloses storing the indexed buyer real estate characteristics in a computer storage device (“database”).

In regard to claim 7, Greden further discloses a search agent 220 acting on behalf of the buyer (see FIG. 2).

In regard to claim 8, Greden further discloses a listing agent acting on behalf of the seller (see col. 9, lines 36-53).

In regard to claims 9-13, 15-21, 23 and 24, the claims are deemed anticipated by Greden. Greden discloses the method set forth above, and further discloses an apparatus for executing the method, wherein said apparatus include computer program modules and code (see col. 4, lines 37-54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greden as applied to claims 1-5, 7-13, 15-21, 23 and 24 above, and further in view of US Patent No. 5,664,115 to Fraser.

In regard to claims 6, 14 and 22, Greden further discloses communication between the potential seller and at least one of the potential buyers (see col. 4, lines 55-67), but does not disclose said communication as identity neutral.

Fraser discloses a system and method for matching buyers and sellers of real estate, said method including a communication between the buyer and seller, wherein the communication is substantially identity anonymous (see col. 2, line 62 – col. 3, line 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to make at least one buyer-seller communication disclosed by Greden

anonymous as disclosed by Fraser. The motivation for maintaining anonymity would be to protect one party against and over-intrusive other party.

With respect to the above rejections, the Examiner has cited particular portions of the reference(s), and although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the Applicant consider each cited reference in its entirety as potentially teaching the limitations of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JARED W. NEWTON whose telephone number is (571)272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

JWN
March 21, 2008